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PATENT COOPERATION TREATY

01 P021 C King
H. Frey
2/10/04
PCT 26900-017

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

Fricke, Hilmar L.
E.I. DU PONT DE NEMOURS AND COMPANY
Legal Patent Records Center
4417 Lancaster Pike
Wilmington, DE 19805
ETATS-UNIS D'AMERIQUE

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DEC 16 2003

WRITTEN OPINION
(PCT Rule 66)

Date of mailing
(day/month/year)

10.12.2003

Applicant's or agent's file reference

FA1043 PCT

☐ TO BE REVIEWED
BY ATTORNEY

REPLY DUE

within 2 month(s)
from the above date of mailing

International application No.
PCT/US02/41723

International filing date (day/month/year)
13.12.2002

Priority date (day/month/year)
14.12.2001

International Patent Classification (IPC) or both national classification and IPC
B05D1/28, B05D1/28

Applicant

E.I. DU PONT DE NEMOURS AND COMPANY et al.

1. This written opinion is the first drawn up by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is:

DEC 17 2003

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DEC 23 2003
POTTER ANDERSON & CORROON LLP

Name and mailing address of the international preliminary examining authority:



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WRITTEN OPINIONInternational application No. **PCT/US02/41723****I. Basis of the opinion**

1. With regard to the elements of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-16 as published

Claims, Numbers

1-12 as published

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)

Claims

WRITTEN OPINION

International application No. **PCT/US02/41723**

Inventive step (IS) Claims 1-12

Industrial applicability (IA) Claims

2. Citations and explanations

see separate sheet

**WRITTEN OPINION
SEPARATE SHEET**

International application No. PCT/US 02/41723

D1: US-A-3 640 791
D2: JP-A-07 008 892
D3: EP-A-1 065 297

1. Documents D1 and D2 (see abstract and figures) both disclose the basic idea of the application, ie a process for repairing a coated substrate surfaces (see D1, column 1, lines 28 to 30) wherein a backing film coated on one side with an uncured coating layer (D1, column 1, lines 34 to 38) is provided, the backing film is applied with its coated side onto the blemished area to be repaired (D1, column 1, lines 39 to 41) and the backing film is removed (D1, column 1, line 42). Thus, the subject-matter of claim 1 differs from what is disclosed in D1 and D2 merely in that the coating material is cured by thermal energy (D1 and D2 are silent about this. However, the application of heat is a usual method for curing and fixing coating materials (see eg D3). Consequently, the subject-matter of claims 1 is not based on an inventive step. Claim 1 does not meet the requirements of Art. 33(3) PCT.
2. The features of the dependent claims seem to be evident in the light of the cited documents and the general knowledge of the skilled person or are the obvious result of optimization with regard to the respective circumstances. Therefore, the dependent claims do not meet the requirements of Art. 33(3), either.